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7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 EDMOND NEAL,

11 Plaintiff,

12 vs.

13  
14 ONERED, LLC; and DOES 1 through 10,  
15 Defendants.  
16  
17  
18  
19  
20  
21  
22

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR  
VIOLATION OF:

1. AMERICANS WITH DISABILITIES  
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT, CAL CIV. CODE §§ 51 -  
52 et seq.;
3. CALIFORNIA'S DISABLED  
PERSONS ACT, CAL CIV. CODE §54 et  
seq.
4. CALIFORNIA HEALTH & SAFETY  
CODE § 19955, et seq.
5. NEGLIGENCE

23  
24 Plaintiff EDMOND NEAL ("Plaintiff") complains of Defendants ONERED, LLC;  
25 and DOES 1 through 10 ("Defendants") and alleges as follows:

26 //

27 //

28 //

**PARTIES**

1  
2 1. Plaintiff is a California resident with a physical disability. Plaintiff is an  
3 amputee below his right knee. Plaintiff requires the use of a wheelchair at all times when  
4 traveling in public.

5 2. Defendants are, or were at the time of the incident, the real property owners,  
6 business operators, lessors and/or lessees of the real property for a restaurant and bar  
7 business establishment ("Business") located at or about 2807 Main St., Santa Monica,  
8 California.

9 3. The true names and capacities, whether individual, corporate, associate or  
10 otherwise of Defendant DOES 1 to 10, and each of them, are unknown to Plaintiff, who  
11 therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of Court  
12 to amend this Complaint when the true names and capacities have been ascertained.  
13 Plaintiff is informed and believes and, based thereon, alleges that each such fictitiously  
14 named Defendants are responsible in some manner, and therefore, liable to Plaintiff for  
15 the acts herein alleged.

16 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
17 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
18 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
19 the things alleged herein was acting with the knowledge and consent of the other  
20 Defendants and within the course and scope of such agency or employment relationship.

21 5. Whenever and wherever reference is made in this Complaint to any act or  
22 failure to act by a defendant or Defendants, such allegations and references shall also be  
23 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
24 and severally.

**JURISDICTION AND VENUE**

25  
26 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and  
27 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*  
28 *seq.*)



1 Business, however, Plaintiff is deterred from visiting the Business because his knowledge  
2 of these violations prevents his from returning until the barriers are removed.

3 15. Based on the violations, Plaintiff alleges, on information and belief, that  
4 there are additional barriers to accessibility at the Business after further site inspection.  
5 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-  
6 Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

7 16. In addition, Plaintiff alleges, on information and belief, that Defendants  
8 knew that particular barriers render the Business inaccessible, violate state and federal  
9 law, and interfere with access for the physically disabled.

10 17. At all relevant times, Defendants had and still have control and dominion  
11 over the conditions at this location and had and still have the financial resources to  
12 remove these barriers without much difficulty or expenses to make the Business  
13 accessible to the physically disabled in compliance with ADDAG and Title 24  
14 regulations. Defendants have not removed such barriers and have not modified the  
15 Business to conform to accessibility regulations.

### 16 **FIRST CAUSE OF ACTION**

#### 17 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

18 18. Plaintiff incorporates by reference each of the allegations in all prior  
19 paragraphs in this complaint.

20 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
21 shall be discriminated against on the basis of disability in the full and equal enjoyment of  
22 the goods, services, facilities, privileges, advantages, or accommodations of any place of  
23 public accommodation by any person who owns, leases, or leases to, or operates a place  
24 of public accommodation. *See* 42 U.S.C. § 12182(a).

25 20. Discrimination, *inter alia*, includes:

- 26 a. A failure to make reasonable modification in policies, practices, or  
27 procedures, when such modifications are necessary to afford such  
28 goods, services, facilities, privileges, advantages, or accommodations

1 to individuals with disabilities, unless the entity can demonstrate that  
2 making such modifications would fundamentally alter the nature of  
3 such goods, services, facilities, privileges, advantages, or  
4 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

5 b. A failure to take such steps as may be necessary to ensure that no  
6 individual with a disability is excluded, denied services, segregated or  
7 otherwise treated differently than other individuals because of the  
8 absence of auxiliary aids and services, unless the entity can  
9 demonstrate that taking such steps would fundamentally alter the  
10 nature of the good, service, facility, privilege, advantage, or  
11 accommodation being offered or would result in an undue burden. 42  
12 U.S.C. § 12182(b)(2)(A)(iii).

13 c. A failure to remove architectural barriers, and communication barriers  
14 that are structural in nature, in existing facilities, and transportation  
15 barriers in existing vehicles and rail passenger cars used by an  
16 establishment for transporting individuals (not including barriers that  
17 can only be removed through the retrofitting of vehicles or rail  
18 passenger cars by the installation of a hydraulic or other lift), where  
19 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

20 d. A failure to make alterations in such a manner that, to the maximum  
21 extent feasible, the altered portions of the facility are readily  
22 accessible to and usable by individuals with disabilities, including  
23 individuals who use wheelchairs or to ensure that, to the maximum  
24 extent feasible, the path of travel to the altered area and the  
25 bathrooms, telephones, and drinking fountains serving the altered  
26 area, are readily accessible to and usable by individuals with  
27 disabilities where such alterations to the path or travel or the  
28 bathrooms, telephones, and drinking fountains serving the altered

1 area are not disproportionate to the overall alterations in terms of cost  
2 and scope. 42 U.S.C. § 12183(a)(2).

3 21. The side wall grab bar shall be 42 inches (1065 mm) long minimum, located  
4 12 inches (305 mm) maximum from the rear wall and extending 54 inches (1370 mm)  
5 minimum from the rear wall. 2010 ADA Standards § 604.5.1. The rear wall grab bar  
6 shall be 36 inches (915 mm) long minimum and extend from the centerline of the water  
7 closet 12 inches (305 mm) minimum on one side and 24 inches (610 mm) minimum on  
8 the other side. 2010 ADA Standards § 604.5.2

9 22. Here, Defendants failed to properly install the rear grab bar as required by  
10 the Standards.

11 23. Coat hooks shall be located within one of the reach ranges specified in 308.  
12 Shelves shall be located 40 inches (1015 mm) minimum and 48 inches (1220 mm)  
13 maximum above the finish floor. 2010 ADA Standards § 603.4. Where a forward reach  
14 is unobstructed, the high forward reach shall be 48 inches (1220 mm) maximum and the  
15 low forward reach shall be 15 inches (380 mm) minimum above the finish floor or  
16 ground. 2010 ADA Standards § 308.2.1. Where a clear floor or ground *space* allows a  
17 parallel approach to an *element* and the side reach is unobstructed, the high side reach  
18 shall be 48 inches (1220 mm) maximum and the low side reach shall be 15 inches (380  
19 mm) minimum above the finish floor or ground. 2010 ADA Standards § 308.3.1.

20 24. Here, Defendants failed to properly install coat hooks pursuant to the  
21 Standards as the one provided was installed too high from the ground.

22 25. Toilet paper dispensers shall comply with 309.4 and shall be 7 inches (180  
23 mm) minimum and 9 inches (230 mm) maximum in front of the water closet measured to  
24 the centerline of the dispenser. The outlet of the dispenser shall be 15 inches (380 mm)  
25 minimum and 48 inches (1220 mm) maximum above the finish floor and shall not be  
26 located behind grab bars. Dispensers shall not be of a type that controls delivery or that  
27 does not allow continuous paper flow. 2010 ADA Standards § 604.7.  
28





1           34. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,  
2 or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable  
3 for each and every offense for the actual damages, and any amount that may be  
4 determined by a jury, or a court sitting without a jury, up to a maximum of three times the  
5 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any  
6 attorney’s fees that may be determined by the court in addition thereto, suffered by any  
7 person denied the rights provided in Section 51, 51.5, or 51.6.

8           35. California Civil Code § 51(f) specifies, “a violation of the right of any  
9 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)  
10 shall also constitute a violation of this section.”

11           36. The actions and omissions of Defendants alleged herein constitute a denial  
12 of full and equal accommodation, advantages, facilities, privileges, or services by  
13 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.  
14 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
15 51 and 52.

16           37. The violations of the Unruh Civil Rights Act caused Plaintiff to experience  
17 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory  
18 damages as specified in California Civil Code §55.56(a)-(c).

### 19                                   **THIRD CAUSE OF ACTION**

#### 20                   **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

21           38. Plaintiff incorporates by reference each of the allegations in all prior  
22 paragraphs in this complaint.

23           39. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be  
24 entitled to full and equal access, as other members of the general public, to  
25 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
26 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,  
27 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
28 of transportation (whether private, public, franchised, licensed, contracted, or otherwise



provided), telephone facilities, adoption agencies, private schools, hotels, loading places, places of public accommodations, amusement, or resort, and other places in which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

40. California Civil Code § 54.3(a) states, “Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages, and any amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000) and any attorney’s fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 54, 54.1, and 54.2.

41. California Civil Code § 54(d) specifies, “a violation of the right of an individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also constitute a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

42. The actions and omissions of Defendants alleged herein constitute a denial of full and equal accommodation, advantages, and facilities by physically disabled persons within the meaning of California Civil Code § 54. Defendants have discriminated against Plaintiff in violation of California Civil Code § 54.

43. The violations of the California Disabled Persons Act caused Plaintiff to experience difficulty, discomfort, and embarrassment. The Defendants are also liable for statutory damages as specified in California Civil Code §55.56(a)-(c).

#### **FOURTH CAUSE OF ACTION**

#### **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

44. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

1           45. Plaintiff and other similar physically disabled persons who require the use of  
2 a wheelchair are unable to use public facilities on a “full and equal” basis unless each  
3 such facility is in compliance with the provisions of California Health & Safety Code §  
4 19955 et seq. Plaintiff is a member of the public whose rights are protected by the  
5 provisions of California Health & Safety Code § 19955 et seq.

6           46. The purpose of California Health & Safety Code § 1995 et seq. is to ensure  
7 that public accommodations or facilities constructed in this state with private funds  
8 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of  
9 Title 1 of the Government Code. The code relating to such public accommodations also  
10 require that “when sanitary facilities are made available for the public, clients, or  
11 employees in these stations, centers, or buildings, they shall be made available for  
12 persons with disabilities.

13           47. Title II of the ADA holds as a “general rule” that no individual shall be  
14 discriminated against on the basis of disability in the full and equal enjoyment of goods  
15 (or use), services, facilities, privileges, and accommodations offered by any person who  
16 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).  
17 Further, each and every violation of the ADA also constitutes a separate and distinct  
18 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an  
19 award of damages and injunctive relief pursuant to California law, including but not  
20 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

## 21                                   **FIFTH CAUSE OF ACTION**

### 22                                   **NEGLIGENCE**

23           48. Plaintiff incorporates by reference each of the allegations in all prior  
24 paragraphs in this complaint.

25           49. Defendants have a general duty and a duty under the ADA, Unruh Civil  
26 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
27 to the Plaintiff.  
28

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3            51. As a direct and proximate result of Defendants' negligent conduct, Plaintiff  
4 has suffered damages.

5 **PRAYER FOR RELIEF**

6           WHEREFORE, Plaintiff respectfully prays for relief and judgment against  
7 Defendants as follows:

8           1.     For preliminary and permanent injunction directing Defendants to comply  
9 with the Americans with Disability Act and the Unruh Civil Rights Act;

10           2.     Award of all appropriate damages, including but not limited to statutory  
11 damages, general damages and treble damages in amounts, according to proof;

12           3.     Award of all reasonable restitution for Defendants' unfair competition  
13 practices;

14           4.     Reasonable attorney's fees, litigation expenses, and costs of suit in this  
15     action;

16           5.     Prejudgment interest pursuant to California Civil Code § 3291; and

17        6.       Such other and further relief as the Court deems just and proper.

18 **DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby  
demands a trial by jury on all issues so triable.

21

22 | Dated: April 11, 2023

23

24

25 By: /s/ Jason J. Kim  
26 Jason J. Kim, Esq.  
Attorneys for Plaintiff

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